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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Appeal 2009-004114  
Application 10/062,346  
Technology Center 2100

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*Ex parte* CARL O. BENNETT JR., FLEMMING BOEGELUND, BRUCE  
D. CHATMAN, and STEVEN EARL HICKS

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Decided: March 19, 2010

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*Before* JOSEPH L. DIXON, ST. JOHN COURTENAY III, and  
THU A. DANG, *Administrative Patent Judges*.

DANG, *Administrative Patent Judge*.

DECISION ON APPEAL

I. STATEMENT OF CASE

Appellants appeal the Examiner's final rejection of claims 1-24 under 35 U.S.C. § 134 (2002). We have jurisdiction under 35 U.S.C. § 6(b) (2002).

We affirm.

## A. INVENTION

According to Appellants, the invention relates to the field of image displays on computer systems and in particular to a method and system for displaying large amounts of display information organized in huge hierarchies (Spec. 1, ll. 4-6).

## B. ILLUSTRATIVE CLAIM

Claim 1 is exemplary and is reproduced below:

1. A method for navigating through a repository of graphical displays and maintain knowledge of the location of any display currently being viewed comprising the steps of:

displaying a main folder of directories in the repository from which a user can select one of the directories to navigate through to review graphical displays;

displaying the complete hierarchical information for a selected directory from the main folder of directories, hierarchical information includes the categories of graphical display sets for a selected entry in the directory;

displaying a viewing screen of the graphical display sets for a selected graphical display set, the viewing screen containing a row of buttons corresponding to the number of display sets in the selected category and a second row of buttons corresponding to the number of displays in a selected display set; and

displaying a graphical display corresponding to one of buttons selected from the row of buttons corresponding to the number of displays in a selected display set.

### C. REJECTION

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Mavrommati	US 6,842,185 B1	Jan. 11, 2005 (filed on Oct. 23, 1998)
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Claims 1-24 stand rejected under 35 U.S.C. § 102(e) as anticipated by the teachings of Mavrommati.

### II. ISSUE

The issue is whether Appellants have shown that the Examiner erred in finding that Mavrommati discloses “displaying the complete hierarchical information for a selected directory from the main folder of directories” (claim 1).

### III. FINDINGS OF FACT

The following Findings of Fact (FF) are shown by a preponderance of the evidence.

#### *Mavrommatti*

1. Mavrommati discloses displaying a hierarchical menu structure with icons using only two fields on the display, wherein the hierarchical menu is an efficient and effective mechanism for supporting the user

- in selecting an icon from a relatively large number of icons (col. 1, ll. 53-57).
2. A first sequence of icons are displayed one after the other in a field on the display, wherein, upon selection of a particular icon of the first sequence, a second sequence of icons associated with the selected icon of the first sequence are displayed one after the other in another field on the display (Abstract; Fig. 2).
  3. The sequences of icons, displayed in the different fields, constitute a hierarchical two-level menu structure (*id.*).
  4. Mavrommati discloses that further levels may be included, wherein a second icon of a second sequence in turn has an associated sequence of icons which upon selection, is displayed in a third field on the display (col. 4, ll. 20-25). That is, the number of levels may be larger than two, wherein the selection becomes finer and finer until the desired information item has been selected (col. 4, ll. 45-50).

#### IV. PRINCIPLES OF LAW

##### *35 U.S.C. § 102*

In rejecting claims under 35 U.S.C. § 102, “[a] single prior art reference that discloses, either expressly or inherently, each limitation of a claim invalidates that claim by anticipation.” *Perricone v. Medicis Pharm. Corp.*, 432 F.3d 1368, 1375 (Fed. Cir. 2005) (citation omitted).  
“Anticipation of a patent claim requires a finding that the claim at issue

'reads on' a prior art reference." *Atlas Powder Co. v. IRECO, Inc.*, 190 F.3d 1342, 1346 (Fed. Cir. 1999) "In other words, if granting patent protection on the disputed claim would allow the patentee to exclude the public from practicing the prior art, then that claim is anticipated, regardless of whether it also covers subject matter not in the prior art." *Id.* (citations omitted).

The *claims* measure the invention. See *SRI Int'l v. Matsushita Elec. Corp.*, 775 F.2d 1107, 1121 (Fed. Cir. 1985) (en banc). "[T]he PTO gives claims their 'broadest reasonable interpretation.'" *In re Bigio*, 381 F.3d 1320, 1324 (Fed. Cir. 2004) (quoting *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000)). "Moreover, limitations are not to be read into the claims from the specification." *In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993) (citing *In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989)).

Of course, anticipation "is not an 'ipsissimis verbis' test." *In re Bond*, 910 F.2d 831, 832-33 (Fed. Cir. 1990) (citing *Akzo N.V. v. United States Int'l Trade Comm'n*, 808 F.2d 1471, 1479 n.11 (Fed. Cir. 1986)). "An anticipatory reference . . . need not duplicate word for word what is in the claims." *Standard Havens Prods., Inc., v. Gencor Indus., Inc.*, 953 F.2d 1360, 1369 (Fed. Cir. 1991).

## V. ANALYSIS

In this decision, we have considered only those arguments actually made by Appellants. Arguments which Appellants could have made but did

not make in the Brief have not been considered and are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(vii).

Regarding claim 1, though Appellants admit that “both 6,842,185 (Mavrommati) and Applicants’ present invention describe methods of navigating multiple displays in a hierarchy of displays in a repository” (App. Br. 6), Appellants argue that Mavrommati “describes a method that has one icon displayed at a time” while Appellants’ “entire hierarchy is simultaneously displayed to the viewer” (*id.*). In particular, Appellants argue that “[i]n the present invention, each entry of the main directory is always shown on the screen while in Mavrommati, only one entry at a time is shown on the screen” (*Id.*). Further, Appellants contend that “according to Mavrommati, one objective is to have fewer icons displayed in order [to] reduce confusion from having to select from a large number of icons on the screen” (*id.* at 7), and thus, “[w]hen an icon is selected, only that icon selected is displayed” (*id.*).

The Examiner finds that “Figure 2 of Mavrommati displays a path of selections made where the first selection is highlighted and a path is created to associate the selection to the display elements that are generated in a second level in response to the selection” (Ans. 7). Thus, the Examiner finds that “[i]n a structure where there are only two levels of hierarchy, this would be a complete hierarchy path with main directory and selection from this main directory leading to displaying elements down to the lowest subdirectory” (*id.*).

Though Appellants contend that Appellants' "entire hierarchy is simultaneously displayed to the viewer" and that "[i]n the present invention, each entry of the main directory is always shown on the screen" (App. Br. 6, emphasis added), such contentions are not commensurate in scope with the language of claim 1. Such "simultaneously" or "is always shown" limitations are not recited in the claims. Similarly, Appellants' arguments that Mavrommati "describes a method that has one icon displayed at a time" (*id.*), and that "according to Mavrommati, one objective is to have fewer icons displayed in order [to] reduce confusion from having to select from a large number of icons on the screen" (*id.* at 7) also are not commensurate in scope with the language of claim 1.

Accordingly, the issue that we address on appeal is whether Mavrommati discloses "displaying the complete hierarchical information for a selected directory from the main folder of directories" as specifically recited in claim 1. In particular, we address whether Mavrommati discloses displaying "complete hierarchical information," whether one at a time or simultaneously at all times. That is, we will not read any unrecited limitations with respect to "simultaneously" or "is always shown" into the claim, and nothing in claim 1 precludes the displaying of the hierarchy "one icon at a time" or with an objective of having fewer icons.

Thus, our analysis gives the claims their broadest reasonable interpretation. See *In re Bigio*, 381 F.3d at 1324. Our analysis will not read



limitations into the claims from the specification. *See In re Van Geuns*, 988 F.2d at 1184.

Claim 1 simply does not place any limitation on what “complete hierarchical information” means, includes or represents, other than that “the complete hierarchical information” is displayed. In fact, claim 1 does not even place any limitation on what constitutes “complete.” Therefore, we will not confine the meaning of “complete hierarchical information” to that provided in Appellants’ arguments. Rather, we interpret the “complete hierarchical information” as information that fully meets an (any) objective.

Mavrommati discloses displaying a hierarchical menu structure (FF 1), wherein the plurality of levels of the hierarchy are displayed in a plurality of fields (FF 2-3). That is, as Appellants admit, Mavrommati, like Appellants’ invention, describes “methods of navigating multiple displays in a hierarchy of displays in a repository” (App. Br. 6).

We find that an ordinarily skilled artisan would have understood the hierarchical menu structure of Mavrommati to be “complete” information. That is, the artisan would also have understood this information to contain information that fully meets an objective, such as the objective of completely realizing the plurality of fields on the display. Thus, we agree with the Examiner’s finding that Mavrommati teaches displaying “complete hierarchical information,” as required by claim 1, by displaying “a complete hierarchy path with main directory and selection from this main directory leading to displaying elements down to the lowest subdirectory” (Ans. 7).

Accordingly, we find that the Appellants have not shown that the Examiner erred in rejecting independent claim 1 and claims 2-9 and 11 depending therefrom and falling therewith under 35 U.S.C. § 102(e).

*Claims 10 and 12-22*

Appellants do not provide separate arguments with respect to the rejection of claims 10 and 12. Therefore, we select independent claim 12 as being representative of the cited claims. 37 C.F.R. § 41.37(c)(1)(vii).

As to claims 10 and 12, Appellants repeat the argument that “Mavrommati does not do any simultaneous displaying each selected directory and sub-directory as a window on the same display screen” (App. Br. 8). However, as discussed above, we find such argument is not commensurate in scope with the language of claim 12. That is, claim 12 does not recite any such “simultaneous displaying” limitation.

Though Appellants further add that “as described claims 1 and 12 and included in all claims depending there from in Applicants’ present invention are not so disclosed” (*id.*), as discussed above, we find Appellants have identified no deficiency in the teachings of Mavrommati.

Thus, we find that the Appellants also have not shown that the Examiner erred in rejecting independent claim 12 and claim 10 falling therewith under 35 U.S.C. § 102(e). Since Appellants do not provide separate arguments with respect to claims 13-22 depending from claim 12, claims 13-22 also fall with claim 12.

*Claims 23-24*

As to claim 23, Appellants contend that “[i]n the present invention, Figures 4, 6 and 7 illustrate the storing of images in a repository” wherein “[t]his configuration of Applicants’ present invention is not described or discussed in Mavrommati” (App. Br. 9). However, such argument is not commensurate in scope with the language of claim 23. That is, claim 23 does not recite any such “configuration” as illustrated in Figures 4, 6, and 7 of Appellants’ Specification. Accordingly, our analysis will not read such limitations from the Specification into the claims.

As the Examiner finds, “[t]he display items of Figure 2 [of Mavrommati] are clearly stored in the hierarchical structure to be able to be displayed and selectable” wherein “[t]he icon images are stored in the display structure for the icon images that are stored to be displayed and viewable” (Ans. 9). Furthermore, the Examiner finds that “Mavrommati has provided instructions which represent a program for maneuvering through hierarchy levels that represent directories and sub-directories of graphical displays” and thus “Mavrommati clearly allows for selection of icons or control buttons which enable the user to traverse through the hierarchy levels to make appropriate selections” (*id.*).

Appellants provide no argument to dispute that the Examiner has correctly shown where the claimed elements of claim 23 appear in Mavrommati. Thus, we find that the Appellants also have not shown that

the Examiner erred in rejecting independent claim 23 and claim 24 depending therefrom and falling therewith under 35 U.S.C. § 102(e).

## VI. CONCLUSIONS

(1) Appellants have not shown that the Examiner erred in finding that claims 1-24 are anticipated by the teachings of Mavrommati.

(2) Claims 1-24 are not patentable over the prior art of record.

## VII. DECISION

We affirm the Examiner's decision rejecting claims 1-24 under 35 U.S.C. § 102(e).

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

Appeal 2009-004114  
Application 10/062,346

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